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10/788,800 02/27/2004 Jeffrey D. Chassee 32116 7590 07/27/2006	10124P0001US EXAM	7866
	EXAM	INFR

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER	JACKSON, ANDRE L	
500 W. MADISON STREET	ART UNIT	PAPER NUMBER
SUITE 3800 CHICAGO, IL 60661	3677	TALER NOMBER

Please find below and/or attached an Office communication concerning this application or proceeding.

17	Application No.	Applicant(s)	
Office Action Summary Examiner	10/788,800	CHASSEE, JEFFREY D.	
	Examiner	Art Unit	
	Andre' L. Jackson	3677	
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim 17 apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).	
Status			
1) Responsive to communication(s) filed on 12 M. 2a) This action is FINAL. 2b) This 3) Since this application is in condition for allowar closed in accordance with the practice under E	action is non-final. nce except for formal matters, pro		
Disposition of Claims			
4) ⊠ Claim(s) 1-13,15-33 and 35-44 is/are pending if 4a) Of the above claim(s) is/are withdraw 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are objected to. 8) ⊠ Claim(s) 1-13,15-33 and 35-44 are subject to respect to the subject to	vn from consideration.	ment.	
Application Papers			
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) accomplicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Example 11.	epted or b) objected to by the drawing(s) be held in abeyance. Setion is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority document application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in Applicat rity documents have been receive u (PCT Rule 17.2(a)).	ion No ed in this National Stage	
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:		

Application/Control Number: 10/788,800

Art Unit: 3677

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species:

Species I (claims 1-13, 15-28 and 40-44); Species II (claims 29-33 and 35-39). The species are independent or distinct because applicant's horizontal wall, at the least, in species I is claimed is substantially rigid defining a relative fixed orientation (similar to model exhibited by applicant's representative in a personal interview in October of 2005). However, Species II recites a horizontal wall having a thickness between opposite facing spaced apart surfaces within first and second reference plane and the horizontal wall is frangible such that the horizontal wall can flex or bend within the space between the reference planes. Here, Species II is distinct and may stand alone from the embodiment and model as described and shown in Species I.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are no generic claim(s).

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (10 am - 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

André L. Jackson Patent Examiner AU 3677

ALJ

ROBERT J. SANDY